

FORM TO BE USED BY PRISONERS IN FILING A COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. §1983

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

COMPLAINT

SCHUBERT (# 30850-064)

(Last Name) (Identification Number)

ALLAN D.

(First Name) (Middle Name)

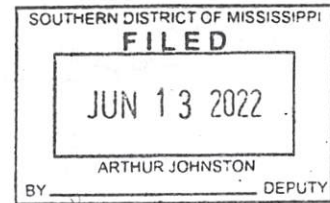
Yazoo Medium Fed. Corr. Complex

(Institution)

P.O. Box 5000, Yazoo City, MS. 39194

(Address)

(Enter above the full name of the plaintiff, prisoner and address of plaintiff in this action)



V.

CIVIL ACTION NUMBER: 3:22 cv 321 HTW-LGI
(to be completed by the Court)

% Avery

JURY TRIAL DEMAND

(Enter the full name of the defendant(s) in this action)

GENERAL INFORMATION

- A. At the time of the incident complained of in this complaint, were you incarcerated?
Yes ☒ No ()
- B. Are you presently incarcerated?
Yes ☒ No ()
- C. At the time of the incident complained of in this complaint, were you incarcerated because you had been convicted of a crime?
Yes ☒ No ()
- D. Are you presently incarcerated for a parole or probation violation?
Yes () No ☒
- E. At the time of the incident complained of in this complaint, were you an inmate of the Mississippi Department of Corrections (MDOC)?
Yes () No ☒
- F. Are you currently an inmate of the Mississippi Department of Corrections (MDOC)?
Yes () No ☒

PARTIES

(In item I below, place your name and prisoner number in the first blank and place your present address in the second blank.)

I. Name of plaintiff: SCHUBERT, ALLAN D. Prisoner Number: 30850-064

Address: Yazoo Medium Fed. Corr. Complex
P.O. Box 5000
Yazoo City, MS. 39194

(In item II below, place the full name of the defendant in the first blank, his official position in the second blank, and his place of employment in the third blank. Use the space below item II for the names, positions and places of employment of any additional defendants.)

II. Defendant: AVERY is employed as Correctional
officer at Yazoo Medium Fed. Corr. Complex
P.O. Box 5666
Yazoo City, MS. 39194

The plaintiff is responsible for providing his/her address and in the event of a change of address, the new address of plaintiff as well as the name(s) and address(es) of each defendant(s). Therefore, the plaintiff is required to complete the portion below:

PLAINTIFF:

NAME:

ADDRESS:

DEFENDANT(S):

NAME:

ADDRESS:

OTHER LAWSUITS FILED BY PLAINTIFF

NOTICE AND WARNING

The plaintiff must fully complete the following questions. Failure to do so may result in your case being dismissed.

- A. Have you ever filed any lawsuits in a court of the United States? Yes (X) No ()
- B. If your answer to A is yes, complete the following information for each and every civil action and appeal filed by you. (If there is more than one action, complete the following information for the additional actions on the reverse of this page or additional sheets of paper.)

CASE NUMBER 1.

1. Parties to the action: u/A
2. Court (if federal court, name the district; if state court, name the county):
Southern Dist. Illinois
3. Docket Number: u/A
4. Name of judge to whom case was assigned: u/A
5. Disposition (for example: was the case dismissed? If so, what grounds? Was it appealed? Is it still pending?) Trial; Dismissed;
Defendants "Not Guilty"

CASE NUMBER 2.

1. Parties to the action: _____
2. Court (if federal court, name the district; if state court, name the county): _____
3. Docket Number: _____
4. Name of judge to whom case was assigned: _____
5. Disposition (for example: was the case dismissed? If so, what grounds? Was it appealed? Is it still pending?) _____

STATEMENT OF CLAIM

- III. State here as briefly as possible the facts of your case. Describe how each defendant is involved. Also, include the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of different claims, number and set forth each claim in a separate paragraph. (Use as much space as you need; attach extra sheet(s) if necessary).

CLAIM ONE: Violation of Due Process,

~~V~~ Amendment of the U.S. Constitution;
Violation of Search and Seizure, ~~IV~~ Amendment.
On June 3, 2022 at approx. 8 pm. %

Avery performed a search of Plaintiff's cell,
located in Fox-Four Unit, Yazoo Medium Federal
Correctional Complex, in Yazoo City, Mississippi.

As a result of Plaintiff utilizing his mattress
for exercising, % AVERY confiscated the
mattress, his blankets and sheet as a
punishment. % AVERY dragged the mattress
RELIEF See pp. 5, 6 →

- IV. State what relief you seek from the court. Make no legal arguments. Cite no cases or statutes.

Plaintiff seeks Actual and Compensatory
damages (including the costs for Court filing, et cetera),
Nominal Award, and Punitive Damages.
Any other relief the court sees fit for
redress or remedy of the claims.

Signed this _____ day of _____, 20____.

I declare (or certify, verify or state) under penalty of perjury that the foregoing is true
 and correct. 18 U.S.C. § 1621; 28 U.S.C. § 1746.

SCHUBERT, Allan

Signature of plaintiff

by: Allan D. Schubert

through soap scum and shower drainage from a row of showers. When asked about a replacement for the night — mattress, blankets, and sheet being a mandatory provision and condition of confinement, as a result of incarceration — she % AVERY told Plaintiff he did not need one if he was working out with them.

% AVERY confiscated and seized Plaintiff's mattress, blankets, and sheet summarily without any notice or opportunity to be heard, and as a form of punishment. These acts are outside and exceeds the scope of the Program Statements implemented by the Bureau of Prisons, the 28th Title of the Code of Federal Regulations, and in violation of the IV and V Amendments of the Constitution.

[Plaintiff has also made an "Electronic Request" to the institutional authorities to preserve the camera footage to support his claims made herein this suit.]
[June 3rd 2022 and June 4, 2022.]

CLAIM TWO: Violation of VIII Amendment Prohibition against Cruel and Unusual Punishment.

As % AVERY took Plaintiff's mattress, blankets, and sheet — dragging said items through shower drainage — Plaintiff yelled out to the Unit prisoners to take notice and that she is refusing to replace said items.

% AVERY did not return or replace said items and forced Plaintiff to sleep on reinforced steel with no blankets or mattress and caused him unnecessary pain and suffering in his shoulders and back.

This seizure of mandatory provisions of confinement and the pain and suffering in his shoulders of the Plaintiff, caused by % AVERY was in violation of the Eighth Amendment prohibition against cruel and unusual punishment and was unnecessary and wantonly inflicted by % AVERY on Plaintiff.

[Again, the camera feed will show that Plaintiff's allegations herein are true beyond any doubt].

CLAIM THREE: Breach of Contract and Malpractice

Plaintiff hereby claims entitlement to an award for breach of contract and malpractice from % AVERY, in that % AVERY, by law, (Title 5 of the United States Code, § 3331) signed an oath of office - a contract - to support and defend the Constitution, to bear faith and allegiance to the same, that established an obligation, and that she would well and faithfully discharge the duties of the office which she was about to enter.

When % AVERY willfully, wantonly, and unnecessarily confiscated Plaintiff's bedding without any Due Process and in violation of the prohibition of cruel and unusual punishment, she violated the stipulations of the contract - her oath of office - that gave her the authority of her employment and office of profit.

~~CLAIM FOUR: Plaintiff's actions are in violation of the Constitution and forfeits any benefit of:~~

~~1. U.S. § 242 - Deprivation of Rights Under Color of Law;~~

~~2. U.S. § 242 - Deprivation of Rights Under Color of Law;~~

~~3. U.S. § 242 - Deprivation of Rights Under Color of Law;~~

~~Criminal actions applicable to % AVERY's actions.~~